

UNITED STATES DISTRICT COURT

Case No.: 2:18-cv-02208-JAD-NJK

Order Dismissing Petition

Clark County Detention Center, *et al.*,

Defendants.

Petitioner has submitted a petition for writ of habeas corpus to the court.¹ However, this petition has not been properly commenced because petitioner has neither paid the filing fee (\$5.00) nor filed an application to proceed *in forma pauperis*. So, I dismiss this case without prejudice to the filing of a new petition in a new action accompanied by either the filing fee (\$5.00) or a completed application to proceed *in forma pauperis*.

I also note that petitioner did not use the court's approved form in drafting his habeas petition.² Petitioner also did not name his custodian as a respondent, as federal law requires.³ Petitioner is advised to correct these defects if and when he files his new petition.

IT THEREFORE IS ORDERED that **this action is DISMISSED without prejudice** to the filing of a new petition in a new action on the court's approved form with either payment of the filing fee or a properly completed application to proceed *in forma pauperis*.

¹ ECF No. 1.

² See LSR 3-1, Local Rules of Practice.

³ See *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) (“The federal habeas statute straightforwardly provides that the proper respondent to a habeas petition is ‘the person’ who has custody over [the petitioner].”).

1 IT FURTHER IS ORDERED that a **certificate of appealability is DENIED** because
2 jurists of reason would not find the court's dismissal of this improperly commenced action
3 without prejudice to be debatable or incorrect.

4 IT FURTHER IS ORDERED that **the Clerk of Court is directed to SEND** petitioner
5 two copies each of an application form to proceed *in forma pauperis* for incarcerated persons and
6 a noncapital Section 2254 habeas petition form, one copy of the instructions for each form, and a
7 copy of the papers that he submitted in this action, **ENTER JUDGMENT** accordingly, and
8 **CLOSE THIS CASE.**

9 Dated: November 27, 2018

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12 U.S. District Judge Jennifer A. Dorsey
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